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DECISION



13054
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20540

Phm-11
Mr. Forman

FILE: B-194795

DATE: March 6, 1980

MATTER OF: Basic allowance for quarters after issuance
of travel authorization for dependents

DIGEST: Member is transferred overseas with deferred travel of dependents due to unavailability of Government quarters. Upon arrival, member is assigned Government quarters available for himself and dependents due to administrative error. Under 37 U.S.C. § 403(d), member is entitled to basic allowance for quarters (BAQ) at the with dependent rate as orders of competent authority prevent dependents from joining him and residing in Government quarters. Upon authorization of dependents' travel, member is entitled to continuation of BAQ until transportation is available for dependents' travel, and arrangements are made for household goods, plus normal travel time of dependents to member's station. See 25 Comp. Gen. 220 (1945).

The basic question on this case is when does a member's entitlement to basic allowance for quarters (BAQ) at the with dependents rate cease after assignment to family type quarters. The question arises in the situation of a member who upon being transferred overseas is denied concurrent travel of dependents because of lack of adequate quarters. Upon arrival, the member is immediately assigned to adequate family type quarters through administrative error. Based on this situation, we have been specifically asked whether the member's entitlement to BAQ ceases upon the authorization of his dependents' travel or at some later point so as to allow the dependents time to arrange to ship household goods and commence travel.

The question was submitted for an advance decision by the Principal Deputy Assistant Secretary of the Army (Installations, Logistics and Financial Management).

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The Military Pay and Allowance Committee has approved the request and assigned it submission number SS-A-1318.

The statutory basis for a member's entitlement to BAQ is contained in 37 U.S.C. § 403 (1976). Under subsection (d), a member assigned to Government quarters may not be denied BAQ "if, because of orders of competent authority, his dependents are prevented from occupying those quarters." Therefore, we have held that a member assigned to family quarters may not have his entitlement to BAQ terminated if his dependents are not authorized to travel to join him as an order of competent authority prevented the dependents from occupying the quarters. 25 Comp. Gen. 220 (1945), citing 20 Comp. Gen. 720 (1941); and B-129805, January 14, 1957. Compare 50 Comp. Gen. 174 (1970).

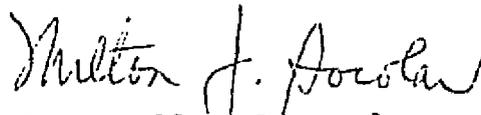
Thus, the question here is resolved by determining when orders of competent authority no longer prevent the dependents from occupying the Government quarters.

In 25 Comp. Gen. 220 we considered, among other things, the effect on a member's entitlement to BAQ (then called rental allowance) when restrictions against travel of dependents to the overseas station were relaxed. We recognized that the relaxation of the restrictions placed an affirmative duty on the member to apply for travel of his dependents to his station so as to occupy quarters which had been assigned for the member and his dependents. Upon prompt application, the member retained his entitlement to BAQ, and even after approval of his dependents' travel he retained his entitlement to BAQ until transportation to his station was available, plus normal travel time to the station. We reasoned that until the dependents' transportation was available, plus the normal travel time, the member's dependents would be considered as being prevented by order of competent authority from occupying the Government quarters. See also B-129805, October 9, 1958; and B-122417, August 31, 1955.

Since the situations in both the instant case and 25 Comp. Gen. 220 involve members awaiting authorization

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of dependents' travel to the overseas station which travel had initially been precluded, we see no reason for different treatment of the situations. Accordingly, the same rule should be applied. That is, the member's BAQ continues until transportation is arranged for the household goods and is available for his dependents, plus the normal travel time for the dependents to the member's station.



Acting Comptroller General
of the United States